

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Pete Brungardt at 10:30 a.m. on February 20, 2008 in Room 526-S of the Capitol.

All members were present.

Committee staff present:

Dennis Hodgins, Kansas Legislative Research Department
Melissa Doeblin, Revisor of Statutes Office
Theresa Kiernan, Revisor of Statutes Office
Connie Burns, Committee Assistant

Conferees appearing before the committee:

Jarrold Forbes, United Health Care
Tom Groneman, Alcoholic Beverage Control
Philip Bradley, Kansas Licensed Beverage Association
Bob Alderson, Casey's General store
Chris Darrah, Darrah's Fast lane
Scott Anderson, Crescent Oil
Brenda Elsworth, Pump'N Petes
Tom Palace Petroleum Marketers & Convenience Store Assoc. Of Kansas

Others attending:

See attached list.

Jarrold Forbes requested a bill introduction pertaining to insurance contracts with health care providers, prohibiting certain types of provisions.

Senator Vratil moved that this request should be introduced as a committee bill. Senator Reitz seconded the motion. The motion carried.

SB 622 - Cereal malt beverages; alcohol content, by ABC, retailers authorized to sale, taxation

Chairman Brungardt opened the hearing on **SB 622**

Tom Groneman, Director, Alcoholic Beverage Control, provided neutral information the bill. (Attachment 1) The bill makes extensive amendments to the Liquor Control act, Club and Drinking Establishment Act and the Retail sales Tax Act. The bill redefines cereal malt beverage (CMB) by increasing the maximum allowable alcohol content from 3.2% to 5% and redefines beer as malt beverages with an alcohol content in excess of 5%. The bill transfers licensing and enforcement of CMB retailers from cities and counties to the ABC, and results in the "new" CMB being sold in liquor stores, convenience stores, grocery stores, taverns and everywhere where it is now legal to sell CMB. The bill exempts CMB from sales tax that is currently collected and instead taxes CMB for off premise consumption at the liquor enforcement tax rate of 8% and CMB for on premise consumption at the liquor drink tax rate of 10%. There are several sections that ABC would ask for clarification and possible amendments

Philip Bradley, Kansas Licensed Beverage Control, (KLBC) provided neutral information on the bill. (Attachment 2) There are ten concerns that KLBC would like resolved before the bill advances:

1. There are "Dry" counties where no alcohol may be sold only CMB; will it then be illegal to sell this stronger beer in those counties?
2. Does a drinking establishment (DE) license allow sale of the new CMB?
3. The bill allows for opening at 6 am; should this be 9 am to be consistent with DE licenses?
4. Will a CMB retailer be allowed to obtain a federal wholesaler license and then sell to a DE as Liquor stores now do?
5. Why is the CMB bond different than DE licensees? Should it adjust as DE's do now?
6. Why is the license only 25% of a DE license? (\$250 vs. \$1,000)
7. Why is the word "domestic" added to pg 11, line 10 & 14? It has nothing to do with the CMB issue and is even in the Micro brewery statutes; we ask this to be deleted.
8. On page 41, lines 34-37 contains language that may cause conflict with the administrative actions

CONTINUATION SHEET

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against a licensee by the ABC; and why is this in the statute and why is it not also in the other alcohol acts?

9. Would CMB taverns pay the 8% enforcement tax on their purchases as do all other on-premise retailers? If not, why not?
10. On page 8, line 37 thru page 9, line 15, we change to whom a beer distributor may deliver to include temporary permit holders?

Bob Alderson, Casey's General Store, spoke in favor of the bill. (Attachment 3) Mr Alderson is authorized to present his testimony on behalf of the Petroleum Marketers and Convenience store Association of Kansas, Inc., QuickTrip, Hy-Vee, Inc., and the Kansas Food Dealers Association . These organizations and businesses have formed a coalition ("Coalition") for the purpose of supporting legislation which will enable Coalition members to regain an appropriate share of the market for cereal malt products lost over the past several years.

Chris Darrah, Darrah's Fast Lane, spoke in favor of the bill. (Attachment 4) Reasons of convenience would be that beer sales are currently 2 - 4% of the business for convenience stores; the age to buy beer at liquor stores and convenience stores is the same, and they would not have to carry double inventory.

Scott Anderson, Crescent Oil, spoke in favor of the bill. (Attachment 5) When the drinking age changed to 21, the industry lost over 25% of beer sales due to Consumer's perception that "liquor stores" have a better product. At this time there are five states: Kansas, Oklahoma, Colorado, Utah, and West Virginia that sell "liquor store" beer and CMB, and at present two states have pending legislation for single strength beer.

Brenda Elsworth, Pump'N Petes, appeared in favor of the bill. (Attachment 6) This is an economic issue, when the Federal drinking age was set at 21, CMB retailers lost 146% of their beer sales when compared to their own CMB beer category; the convenient store industry has experienced numerous tax increases on cigarettes, fuel, and gross sales over the past 20 years. The liquor industry has been protected from tax increases and competition; it is time to do away with CMB 3.2% beer and have only one strength.

Tom Palace, Petroleum Marketers & Convenience Store Association of Kansas, spoke in favor of the bill. (Attachment 7) This bill is not about alcohol, but rather about economic parity. Beer retailers will pay the 8% liquor enforcement tax when purchasing product from the wholesaler, and the 10% drink tax will be applied to all on premise sales of beer by beer retailers. Beer retailers, unlike liquor retailers, will not have the ability to sell 100 proof alcohol or wine.

Chairman Brungardt closed the hearing on **SB 622**

Senator Barnett spoke on the bill introduced in committee on mandatory server training, ABC has been working to develop a registry.

The meeting was adjourned at 11:55 am. The next scheduled meeting is February 21, 2008.